

UNITED STATES DISTRICT COURTS
EASTERN DISTRICT OF TEXAS
Lufkin DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JUL 22 2021

BY
DEPUTY

Carla Horton

Case Number: 9:21cv127 RC/ZH

Name of Plaintiff(s)

vs

Tyson Foods

Name of Defendant(s)

COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Note: If plaintiff is alleging employment discrimination based on race or color, please also see 42:U.S.C. 1981

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the court by 42 U.S.C. 2000e-5. Equitable and other relief are also sought under 42 U.S.C. 2000e-5(g).

- 2.. Plaintiff, Carla Horton, is a citizen of the United States
(name of plaintiff)

and resides at P.O. Box 73, Logansport
(street address) (city)

DeSoto Parish La, 71049, 318-461-1772
(county) (state) (zip) (telephone)

- 3.. Defendant, Tyson Foods, resides at, or its business is
(name of defendant)
located at 2200 Don Tyson Parkway, Springdale,
(street address) (city)
Washington, AR, 72762,
(county) (state) (zip) (telephone).
4. Plaintiff sought employment from the defendant or was employed by the defendant
at 1019 Shelbyville St., Center,
(street address) (city)
Shelby, Tx, 75935,
(county) (state) (zip).
5. Defendant discriminated against plaintiff in the manner indicated in paragraphs 9 and 10
of the complaint on or about November 6, 2020.
(month, day, year)
6. Plaintiff filed charges against the defendant with the Equal Employment Opportunity
Commission charging defendant with the acts of discrimination indicated in paragraphs
9 and 10 of this complaint on or about June 10, 2021.
(month, day, year)
7. The Equal Employment Commission issued a Notice of Right to Sue which was
received by plaintiff on June 16, 2021.
(month day, year)

8. Because of plaintiff's (1) _____ race, (2) ☒ color, (3) _____ sex,
(4) _____ national origin, defendant:

a. _____ failed to employ plaintiff.

b. ☒ terminated plaintiff's employment.

c. _____ failed to promote plaintiff.

d. ☒ Other defamation of character.

I Carla Horton was falsely
accused of theft.

9. The circumstances under which the defendant discriminated against plaintiff were as follows:

I Carla Horton was terminated from my
employment at Tyson foods. The termination
reason was theft, even though I had not
stolen any property, valuables or item from
the company that employed me 21 years.
This termination stemmed from me voicing
my concern for my safety and those around
me while covid-19 was at it's highest. A
superior of mine disregarded my safety
by improperly wearing his mask. It wasn't until
I asked if he could pull up his mask was I accuse
of theft. I strongly feel that because the plant
I work at is a majority of caucasians that he
felt upset that i brought this concern to light.
Discrimination has occurred because if I was
not african american I would be still employed
and have my 401k and future pensions

10. The acts set forth in paragraph 9 of this complaint:

- a. ☒ are still being committed by defendant.
- b. ☐ are no longer being committed by defendant.
- c. ☒ defendant may still be committing the acts.

11. Plaintiff attaches to this complaint a copy of the charges filed with the Equal Employment Opportunity Commission which charges are submitted as a brief statement of the facts supporting this complaint. WHEREFORE, Plaintiff prays that the Court grant the following relief to the plaintiff:

- a. ☐ Defendant be directed to employ plaintiff.
- b. ☒ Defendant be directed to re-employ plaintiff.
- c. ☐ Defendant be directed to promote plaintiff.
- d. ☒ Defendant be directed to ^{pay unemployment wages} ~~or provide payment~~ and that the _{for suffrage.}

Court grant such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

Carla Horton
(Signature of Plaintiff)

EEOC Form 161 (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Carla Horton**
Po Box 73
Logansport, LA 71049

From: **Houston District Office**
Mickey Leland Building
1919 Smith Street, 7th Floor
Houston, TX 77002



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

460-2021-03475

Michael Lightner,
Investigator

(346) 327-7675

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Michael Lightner for

Rayford O. Irvin,
District Director

June 16, 2021

(Date Issued)

Enclosures(s)

cc: **Sarah Kalagias**
HR Coordinator
TYSON FOODS
2200 Don Tyson Parkway Cp 422
Springdale, AR 72762

TWC- Civil Rights Division
101 East 15th Street
Room 144T
Austin, TX 78778

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope or record of receipt, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was issued to you** (as indicated where the Notice is signed) or the date of the postmark or record of receipt, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: _____ Agency(ies) Charge No(s): 460-2021-03475 <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
and EEOC			
State or local Agency, if any			
Name (indicate Mr., Ms., Mrs.) Carla Horton		Home Phone (Incl. Area Code) (318) 461-1772	Date of Birth 1967
Street Address City, State and ZIP Code Po Box 73, Logansport, LA 71049			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name TYSON FOODS		No. Employees, Members Unknown	Phone No. (Include Area Code) (936) 598-2727
Street Address City, State and ZIP Code 1019 Shelbyville St., Center, TX 75935			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 11/6/2020 11/6/2020 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I have worked for the above employer for over 21 years. My last role was working in supply where my duties were to issue out equipment and washing laundry and Cory Johnson was my supervisor. On or about November 6, 2020, my employer had accused me of stealing food from the cafeteria. This is a false accusation made by the day shift cafeteria manager.</p> <p>During our interaction I expressed to him the need to wear his mask properly for safety reasons. After clocking back into work from my lunch break, I was asked to go to human resources. I was asked to explain my interaction with the manager and provided witnesses to what I had said to him. However, Human Resources Admin Whitney LNU told me that there were three witnesses who had saw me steal and eat fish in the cafeteria. Apparently, the manager had spoke with human resources and lied to them about my action in retaliation of my request that he wear his mask properly. I was told that I was being laid off for three days while they investigate the matter. However, I was never called back to return to work.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY – When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
Date <u>10-10-2021</u> Charging Party Signature <u>Carla Horton</u>			

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**460-2021-03475**

_____ and EEOC

_____ State or local Agency, if any

I called Whitney to inquire about the investigation. She informed me that I was terminated citing the incident described above. This employer's decision and investigation was swift and conducted improperly. My witnesses were not interviewed nor was my account of the events taken into consideration. This employer has video cameras in that area and could have viewed those as part of their investigation to see that I was being honest, yet they opted to take the word of a manager who was not wearing his mask correctly. Clearly this was in retaliation because of my actions.

I believe that I have been discriminated against by being subjected to retaliation, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

6-16-2021 Carla Horton

Date

Charging Party Signature

NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

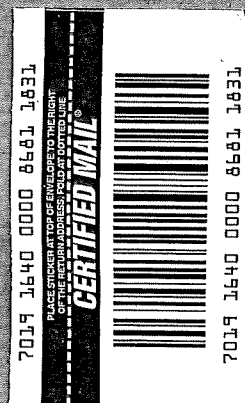
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

FROM:

Carla Horton
PO Box 73
Logansport La 71049

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CLERK, U.S. DISTRICT COURT
JUL 22 2021
EASTERN DISTRICT OF TEXAS
LUFKIN, TEXAS



U.S. POSTAGE PAID
FORM 16 ENR
LOGANSPORT, LA
71049-0073
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Lufkin Texas 75901

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